Supreme Court, U.S.
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IN THE

Supreme Court of the United States

Bruce D. Watts, Petitioner

versus

Network Solutions, Inc.

On Petition For Writ Of Certiorari
To The 7th Circuit Court Of Appeals In Chicago

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW. RULE 14.1(A)

01) Did NSI and/or the Courts violate the U.S. Constitution?
02) Did the Courts violate Amendment 7 to the Constitution?
03) Did the Courts violate Amendment 5 to the Constitution?
04) Why did the courts not consider documents they had?
05) Is: "We are part of the U.S. Government" a lie?
06) Is: "No commerce is conducted on the Internet" a lie?
07) Will the Supreme Court overturn "Summary Judgement"?
08) Will the Supreme Court please enforce Trademark laws?
09) Will the Supreme Court allow Network Solutions to steal?
10) Will the Supreme Court please overturn the judgement?
11) Will the Supreme Court please stop this "MONOPOLY"?
12) Will the Supreme Court enforce cybersquatter judgement?
13) How can Network Solutions say "they still do not know"?
14) Why did the Federal Court Judge contradict himself?
15) Why did the Appeals Court say Watts did not claim injury?
16) Does the Supreme Court agree with "Watts' Principle"?
17) What did Federal Court say about "Trial-by-Jury" request?
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19) Is Network Solutions allowed to break Trademark laws?
20) Will the Supreme Court please read Appeals Court ruling?
21) What is the law about domain name Trademarks?
22) Is Network Solutions guilty of "Trademark Infringement"?
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26) What is "Watts' solution" to domain-trademark problem?
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STATEMENT OF THE BASIS FOR JURISDICTION

28 U.S.C. § 1254

Courts of appeals; certiorari; certified questions:

Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods:

1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgement or decree;

2) By certification at any time by a court of appeals of any question of law in any civil or criminal case as to which instructions are desired, and upon such certification the Supreme Court may give binding instructions or require the entire record to be sent up for decision of the entire matter in controversy.

Did NSI and/or the Courts violate the U.S. Constitution ?

God gave Bruce Watts, a United States citizen, a self-inflating gift balloon idea, who then obtained two U.S. patents on the design and valve, spent over $100,000.00 on the research and development of the invention, created the Trademark: "BIRTHDAY BALLOONS", and was FIRST to use the mark in commerce in the United States.

A "cybersquatter" registered my Trademark on the Internet, with the defendant, Network Solutions, Inc., after receiving a sample from our company via the U.S. Postal Service. I kindly asked the "cybersquatter" and Network Solutions, Inc. to register the mark with Bruce Watts as the owner of the mark, and sent proof that I was FIRST to use the mark in commerce in the United States. Both refused, so I filed two lawsuits, asking the United States Courts to help me protect my right to use my mark in commerce in the United States. I received a judgement against the "cybersquatter" for "Trademark Infringement Injury". I sent copies of the judgement and proof that we were FIRST to use the mark in commerce in the United States to all three parties involved:
1) Judy Woods, attorney for Network Solutions, Inc.
2) U.S. Federal Court Judge Hamilton in Indianapolis
3) U.S. Court of Appeals Judges Wood, Flaum, and Evans
All three parties involved deny receiving the documents, even though I sent proof-of-delivery, and still have receipts from the U.S. Postal Service, Certified-Mail, return-receipt, showing proof-of-deliveries.

The United States Federal Court denied my request for a trial-by-jury, in violation of the 7th Amendment to the U.S. Constitution, awarded the defendant a "Summary Judgement" against Bruce Watts for legal expenses and court costs, worth approximately $100,000.00, and refused to award Bruce Watts the right to use his mark on the Internet. The U.S. Federal Court of Appeals in Chicago ignored Watts' request for a trial-by-jury, in violation of the 7th Amendment to the U.S. Constitution, and said that Watts did not allege antitrust injury, which I did on numerous pages of the "Amended Complaint", which was filed on time with the U.S. Federal Court in Indianapolis. They said that Watts does not have a "properly served" judgement against the 'cybersquatter', which I do!

Did the Courts violate the 7th Amendment to the Constitution?

AMENDMENT VII (1791) to the U.S. Constitution states:

"In Suits at common law, where the value in controversy shall exceed twenty dollars, THE RIGHT OF TRIAL BY JURY shall be preserved, and no fact tried by jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law."

This 7th Amendment to the U.S. Constitution applies to this case, because:

A) This is a common law lawsuit.

B) The original lawsuit asked for $3,000.00 in damages; the "Amended Complaint" asked for $2,000,000.00.
Either amount is in excess of the $20.00 threshold.

Bruce Watts' right to a trial-by-jury, which is guaranteed by the U.S. Constitution, and which he specifically requested, was denied by U.S. Federal Court Judge Hamilton, and also denied by The U.S. Court of Appeals in Chicago.

Please enforce the U.S. Constitution, and give Bruce Watts a "TRIAL-BY-JURY".

Please give Bruce Watts a "TRIAL-BY-JURY".

The last page of Bruce Watts' "Amended Complaint" says:

"'JURY DEMAND'; Pursuant to Rule 38 of the Federal Rules of Court Procedure, I, Bruce Watts, demand a trial-by-jury on all issues triable as of right by a jury".

Did the Courts violate the 5th Amendment to the Constitution?

AMENDMENT V (1791) to the U.S. Constitution states:

"...nor be deprived of life, liberty, or property, without due process of law...".

Judge Hamilton in U.S. Federal Court in Indianapolis has issued a judgement against Bruce Watts that will take away money (Watts' property) from him without a trial, and according to Judge Hamilton's assistant, Chris, without the Judge even reading Watts' paperwork. Chris said that Judge Hamilton did not know that Watts filed a lawsuit against the alleged "cybersquatter", even though in the Judge's "Final Judgement", he said on one page that Watts did not file a lawsuit against the "cybersquatter", and on another page the Judge quotes the defense lawyer as saying that Watts did file a lawsuit against the "cybersquatter", and we sent proof of the judgement certified U.S. Mail, return-receipt to the defense lawyer, to Judge Hamilton, and to the U.S. Court of Appeals.

And Judge Hamilton and the Appeals Court in Chicago also denied Watts a trial-by-jury, as Watts requested.

"Intellectual Property" has also been taken from Bruce Watts without "Due Process". His TRADEMARK: "BIRTHDAY BALLOONS", that he was FIRST to use in commerce in the United States, was stolen by the "cybersquatter", and the defendant, Network Solutions, and the courts have approved of this theft without "Due Process"--without a trial-by-jury--guaranteed by the U.S. Constitution.

Please do not take away Watts' money-property, and please do not take away Watts' "Intellectual Property" without "Due Process", guaranteed by the U.S. Constitution.

Please give Watts the "Trial-by-Jury" that he requested.

Why did the Courts not consider documents they had?

Page 8 from Bruce Watts' appeal No. 99-2350 July 14, 1999:

"Judge Hamilton did not read the paperwork that we sent. In the Judge's decision, he said, and I quote: 'Watts has NOT TAKEN ANY EFFECTIVE STEPS TO SUE the alleged cybersquatter, who lives in Connecticut and has not responded to Watts' electronic correspondence'. But on page 10 of Judge Hamilton's decision, he says that 'On October 27th, 1998, WATTS FILED SUIT against Schwab...'. Also, NSI instructed me to file a lawsuit against the 'cybersquatter', which I did, and sent PROOF of this lawsuit to the judge".

"Also, during the pretrial hearing, Judge Hamilton asked the chief counsel for NSI if he knew of our lawsuit against the alleged 'cybersquatter', and the chief counsel said 'yes'--that he knew of our lawsuit against the alleged 'cybersquatter', but that NSI did not keep the domain name in question 'on hold', as their dispute policy dictated, and would not put it 'on hold' in the future, which also shows that the Judge knew of the lawsuit--which contradicts the Judge when he said that 'Watts has not taken any effective steps to sue the alleged 'cybersquatter'".

We sent copies of our U.S. Patent and Trademark Office application for a trademark to Network Solutions, Judge Hamilton in Indianapolis, and the U.S. Court of Appeals in Chicago to show that Bruce Watts was FIRST to use his mark in U.S. Commerce, but all three deny receiving these documents. We sent all three parties a copy of our court judgement against the cybersquatter, but all three deny receiving the documents. We sent on page 2 of 12, and on numerous other pages of our "Amended Complaint" document, claims of antitrust injury, but the Appeals Court in Chicago says that we did not claim injury.

Why did the Courts not consider documents that they had?

Is: "We are part of the U.S. Government " a lie?

Network Solutions stated on numerous occasions in their motions to Judge Hamilton, and in their Briefs, that they were immune from anti-trust monopoly Sherman Act violation and prosecution because of their contract with the U.S. Government, that in effect, made them part of the U.S. Government. Amazingly, Judge Hamilton "bought it", and upheld their claim to "possess automatic government instrumentality immunity". Thank God that the U.S. Appeals Court in Chicago said "NO".

Page 2 of U.S. Appeals Court in Chicago's "ORDER":

"We review the dismissal of the Sherman Act claims de novo, drawing all reasonable inferences from the complaint in favor of Watts. See 'Autry v. Northwest Premium Services, Inc.', 144 F.3d 1037, 1039 (7th Cir.1998). In dismissing these claims, the district court held that Watts could not sue NSI because NSI is immune from antitrust liability as a federal instrumentality. Although NSI is responsible for domain name registration pursuant to a government contract, NSI DOES NOT therefore possess automatic government instrumentality immunity".

Is: "We are part of the U.S. Government" a lie?

Please order NSI to stop telling lies.

Please order NSI to stop telling people that they are part of the United States Government --which they are not!

Is: "No commerce is conducted on the Internet" a lie?

"The Lanham Act prohibits unauthorized 'use in commerce' of a trademark 'in connection with the sale, offering for sale, distribution, or advertising of goods or services' or affixing a 'false designation of origin, false or misleading description' to any goods or services 'used in commerce'".
15 U.S.C.§1114(1) and §1125(a), respectively.

The writers of this law could not have made it clearer! How else could the writers of this law communicate that it is wrong to steal another person's intellectual property, such as trademarks? How else could the writers of the Lanham Act tell the reader of the law that it is wrong to 'use in commerce' another person's trademark. How else could the writers of the law tell us that it is wrong to "affix a false designation of origin"? That it is wrong to "affix a false or misleading description to any goods or services used in commerce"? How else could the writers of the Lanham Act convey the message that stealing and/or misusing and/or mislabelling and/or misinforming others about a trademark is wrong?

Network Solutions avoids the question about why they are stealing, and/or if they are stealing, and/or what they are stealing by trying to focus our attention on "commerce". NSI says that no commerce is conducted on the Internet, therefore the Lanham Act does not apply to the Internet. Are we going to "buy" this balderdash?

Billions of dollars worth of goods and/or services are bought and sold on the Internet in the United States every year., therefore the Lanham Act does apply to the Internet, and the Lanham Act does apply to NSI's ILLEGAL actions of affixing "false designations of origins" to tens of thousands of domain names--possibly hundreds of thousands of domain names--that are infringing on the trademark rights of others.

Is: "No commerce is conducted on the Internet" a lie?

If it is a lie, then why are we allowing Network Solutions to violate the Lanham Act? Why are we allowing Network Solutions to infringe on the rights of others?

Will the Supreme Court overturn "Summary Judgement"?

A) NSI submitted a motion for "Summary Judgement".
B) Bruce Watts submitted evidence as requested.
C) NSI submitted a motion to strike evidence.
D) Judge Hamilton denied their motion to strike my evidence.
E) Judge Hamilton still awarded NSI a "Summary Judgement" because he said the evidence did not show a genuine issue or genuine dispute. But Judge Hamilton says on page 6 of his "Final Judgement": "A dispute is genuine only if a reasonable jury could find for the nonmoving party".

The evidence that Watts submitted is referred to on page 7 of Judge Hamilton's "Final Judgement", and I authenticated my own evidence, and sent copies of the U.S. Certified Mail return-receipts to prove their authenticity. My "issue" would seem more "genuine" if the Judge would read the documents that we sent him, and a "reasonable jury" could find for the nonmoving party, which is the purpose of a jury, and a trial-by-jury is guaranteed by the 7th Amendment to the U.S. Constitution:

"In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial-by-jury shall be preserved, and no fact tried by jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law."

A) Watts submitted evidence that shows a "genuine dispute".
B) Watts authenticated his own evidence and sent copies of the U.S. Certified Mail return-receipts to prove their authenticity.
C) The evidence did show a genuine issue/dispute.
D) A TRIAL-BY-JURY is needed to determine if a genuine issue exists, and a TRIAL-BY-JURY is guaranteed by the 7th Amendment to the U.S. Constitution!

Please overturn the "Summary Judgement".

Will the Supreme Court please enforce Trademark Laws?

Network Solutions, Inc. is "affixing a false designation of origin", naming the owner of my mark: "Birthday Balloons", as Steve Schwab, instead of Bruce Watts.

The Lanham Act prohibits this, but the U.S. Court of Appeals will not enforce this law. Specifically, the Lanham Act, Section 32(1) and 43(a) states:

"The Lanham Act prohibits unauthorized 'use in commerce' of a trademark 'in connection with the sale, offering for sale, distribution, or advertising of goods or services' or affixing a 'false designation of origin, false or misleading description' to any goods or services 'used in commerce'".

Network Solutions convinced the U.S. Federal Court and U.S. Court of Appeals that no commerce is conducted on the Internet; that nobody buys or sells products and/or services on the Internet, and therefore the Lanham Act does not apply to NSI's "Trademark Infringement" of tens of thousands of domain names by affixing "false designations of origins", listing the "cybersquatters" as owners of the Trademarks, instead of listing the real Trademark owners.

Network Solutions is INJURING ME by affixing a "false designation of origin" to my trademark: "BIRTHDAY BALLOONS", by listing Steve Schwab as the owner of "BirthdayBalloons.com", instead of its rightful owner, Bruce Watts, who was FIRST to use the mark in commerce in the United States. Please read "Question # 21: What is the law about domain name Trademarks?".

Billions of dollars in commerce are exchanged over the Internet each year in the United States, and the Lanham Act does apply to the Internet, and therefore NSI is guilty of TRADEMARK INFRINGEMENT.

NSI's INJURY TO OTHERS IS SO WIDESPREAD, that the courts probably do not want to deal with this NATIONAL PROBLEM!

Will the Supreme Court please enforce Trademark Laws?

Will the Supreme Court allow Network Solutions to steal?

A) God gave Bruce Watts a patent idea: self-inflating balloon.
B) God gave Watts a name for the idea: "Birthday Balloons".
C) Bruce Watts used the mark FIRST in U.S. Commerce.
D) Bruce Watts mailed a U.S. Trademark application 7/7/98.
E) Steve Schwab registered our trademark on the Internet.
F) Watts asked Schwab and NSI to register the mark correctly.
G) Watts send certified-mail receipts of application to NSI.
H) Both refused to comply, so Watts filed two lawsuits.
I) NSI told Judge Hamilton that they knew Watts sued Schwab.
J) Watts received judgement against Schwab for Infringement.
K) NSI says they did not know we had a trademark = LIE.
L) NSI says they did not know Watts won a judgement = LIE.
M) NSI says they are part of the U.S. Government = LIE.
N) NSI says that they are immune from the Lanham Act = LIE.
O) NSI says no commerce is conducted on the Internet = LIE.
P) Watts asked Judy Woods to settle out of court; NSI refused.
Q) Judge Hamilton denies Watts sued Schwab = LIE.
R) Watts asked NSI to give him his name back.
S) NSI sent Watts a letter refusing to settle.
T) Appeals Court says NSI is not part of the U.S. Government.
U) Appeals Court denies Watts has a judgement = LIE.
V) Appeals Court denies Watts claimed injury = LIE.
W) Watts called NSI and asked to settle for no money; denied.
X) NSI still says that it does not know Watts has a trademark.
Y) NSI still refuses to give Watts his name back.
Z) NSI is a monopoly that doesn't need to listen to Watts.

Perhaps NSI would listen to the U.S. Supreme Court ?!?!

Will the Supreme Court please overturn the judgement?

U.S. Federal Court Judge Hamilton's "Final Judgement" contradicts itself:

On page 1, Judge Hamilton says: "that Watts has not taken any effective steps to sue the alleged cybersquatter,".

On page 12, Judge Hamilton says: "that Watts has not taken any serious or effective steps to resolve that dispute directly with Schwab".

On page 10, Judge Hamilton says: "On October 27th, 1998, Watts filed suit against Schwab".

Also, Watts sent U.S. Certified Mail, return-receipt, a copy of the judgement against Schwab, to NSI , and to Judge Hamilton, and to the U.S. Federal Court of Appeals in Chicago.

After receiving the "Final Judgement", Watts called Judge Hamilton to ask why the contradictions. His assistant, Chris, said that the Judge did not lie, because he did not know that we filed a lawsuit against the cybersquatter. Either the Judge lied, or the Judge did not read the paperwork that we sent to the Judge, or the Judge signed his name to a "Final Judgement" that he did not write, because there are contradictions.

Judge Hamilton also says: "Because NSI is acting in compliance with a government cooperative agreement, therefore, it is entitled to immunity from suit under the Sherman Act", which is also a direct quote from NSI; but Judge Hamilton FAILS TO MENTION that it is a quote.

The U.S. Court of Appeals in Chicago also disagrees with Judge Hamilton, by saying: "NSI does NOT therefore possess automatic government instrumentality immunity."

Will the Supreme Court please overturn the judgement?

Will the Supreme Court please stop this "MONOPOLY" ?

Network Solutions has "EXCLUSIVE CONTROL" of registering the ".com", ".net", ".org", and ".edu" top-level domain names on the Internet.

Network Solutions is a MONOPOLY. Period. How can the U.S. Federal Court in Indianapolis or the U.S. Court of Appeals or the U. S. Supreme Court say any different. It is a MONOPOLY by definition. No other company, college, person, business, military, official, etc. can register a top-level domain name ending with ".com", ".net", ".org", or ".edu".

NO OTHER GROUP can register these four top-level domain names on the Internet. Period.

MONOPOLY defined in the "American Heritage new College Edition" dictionary: "exclusive control by one group of the means of producing or selling a commodity or service".

Network Solutions is a MONOPOLY by definition.

Network Solutions is THE ONE AND ONLY GROUP in the business of selling a registration service of four top-level domain names, and they are the ONLY group that is allowed to register these four top-level domain names on the Internet.

Network Solutions is a MONOPOLY by definition.

WILL THE U.S. SUPREME COURT PLEASE STOP THIS MONOPOLY, WHICH IS ILLEGAL ACCORDING TO THE 15 U.S.C. § 1, SHERMAN ANTITRUST ACT.

Will the Supreme Court enforce cybersquatter judgement?

The lawsuit filed in court in Richmond, Indiana asked for damages from Steve Schwab a/k/a "The Cybersquatter", for "Trademark Infringement".

The judgement was awarded to Watts; against Schwab, for injuries from Trademark Infringement.

Judgement against Schwab.

Judgement for Watts.

Judgement reason: "Injuries from Trademark Infringement".

Judgement amount: $ 3,000.00 plus interest plus costs.

Will the Supreme Court enforce cybersquatter judgement?

Also, since the cybersquatter is guilty of trademark infringement, then NSI is also guilty of trademark infringement, since they are affixing a "false designation of origin" to my mark, which is used in commerce, in violation of the Lanham Act, which the Courts are suppose to enforce.

How can Network Solutions say: "they still do not know"?

01) 10/98 Watts CALLED NSI to notify them of trademark.
02) 10/98 Watts FAXED NSI to notify them of trademark.
03) 10/98 Watts E-MAILED NSI to notify them of trademark.
04) 10/98 Watts MAILED certified with receipt to notify NSI.
05) 10/98 Watts CALLED NSI again about trademark.
06) 10/98 Watts CALLED to notify NSI's "Dispute Dept.".
07) 10/98 Watts CALLED again to NSI's "Dispute Dept.".
08) 10/98 Watts MAILED Trademark application to NSI.
09) 10/98 Watts MAILED cybersquatter lawsuit to NSI.
10) 10/98 Watts SUED NSI for "Trademark Infringement".

12/15/98 Judy Woods, defense attorney for Network Solutions sent IN WRITING to U.S. Federal Court Judge Hamilton, the following statement: "to date, Network Solutions has not received such a complaint", and "you have no rights".

8/99 Appellee Brief, page 11, Judy Woods says to the U.S. Court of Appeals: "Network Solutions does not deny that Watts contacted it, but at no time did Watts do anything other than to offer his own conclusory statements about 'his rights' to the domain name 'BirthdayBalloons.com' or demand that the subject domain name be transferred from Schwab to him."

Page 5 of 12 of my "AMENDED COMPLAINT", item #25:
"Upon information and belief, NSI continues to supply a domain name to Mr. Schwab who it knows or has reason to know by virtue of my repeated correspondence with NSI is engaged in trademark infringement and unfair competition."

If NSI says that it did not know before--which it did, but if NSI says that they did not know before, what about NOW? Why has NSI still done nothing to rectify the situation? Why does NSI CONTINUE TO SUPPLY a domain name to a cybersquatter?

They have sent copies of my memo claiming Trademark Rights to the Federal Court, and they have sent copies of my memo claiming Trademark Rights to the Appeals Court in Chicago, so they obviously know that I am claiming Trademark Rights.

If a Trademark owner has no rights to a Trademark, what is the purpose of a Trademark?

Why did Federal Court Judge Hamilton contradict himself?

We told the U.S. Court of Appeals:

"Judge Hamilton did not read the paperwork that we sent. In the Judge's decision, he said, and I quote: 'Watts has not taken any effective steps to sue the alleged cybersquatter, who lives in Connecticut and has not responded to Watts' electronic correspondence.' But on page 10 of Judge Hamilton's decision, he says that 'On October 27th, 1998, WATTS FILED SUIT AGAINST SCHWAB...'. Also, NSI instructed me to file a lawsuit against the 'cybersquatter', which I did, and sent proof of this lawsuit to the Judge."

"Also, during the pretrial hearing, Judge Hamilton asked the chief counsel for NSI if he knew of our lawsuit against the alleged 'cybersquatter', and the chief counsel said 'yes'--that he knew of our lawsuit against the alleged 'cybersquatter', but that NSI did not keep the domain name in question 'on hold', as their dispute policy dictated, and would not put it 'on hold' in the future, which also shows that the Judge knew of the lawsuit--which contradicts the Judge when he said that 'Watts has not taken any effective steps to sue the alleged 'cybersquatter'".

Judge Hamilton contradicted himself, by saying that Watts did not sue the cybersquatter, and then quoting the defense attorney saying that Watts did sue the cybersquatter, even stating the date that Watts filed suit. After receiving Judge Hamilton's "Final Judgement", I called his office to ask why the contradiction, and his assistant, Chris, said that Judge Hamilton did not know that we sued the cybersquatter. I asked Chris how could the Judge quote the date that we filed suit, and Chris said that clerks type the responses, that it was an error--which means that the Judge probably didn't read any of our paperwork since the entire "verdict" is almost word-for-word from the defense attorney's reply-brief. The Defense attorney basically told the Judge what to say, and he said it, almost word-for-word.

Why did the Appeals Court say Watts did not claim injury?

The U.S. Court of Appeals says on 10/27/99 on page 3:

"Watts maintains that NSI has a MONOPOLY in the domain-name registering business. However, HE DOES NOT ARGUE THAT HE WAS INJURED as a consumer by, for example, BEING FORCED TO PAY HIGHER PRICES or by being forced out of the market of registering domain-names himself". Therefore they incorrectly threw out the case.

But, YES, WATTS DID AND DOES ARGUE THAT HE WAS INJURED, AND YES, WATTS DOES SAY HE WAS FORCED TO PAY HIGHER PRICES, AND OTHER INJURIES; Watts says in "Amended Complaint" filed 1/22/99,

01) page 2 of 12; item #3: "Upon information and belief, Defendant NSI does business in the Southern District of Indiana and by its conduct has caused and is causing tortious INJURY to me in this district."
02) page 02 of 12; item #06: "INJURY" claimed.
03) page 05 of 12; item #28: "to cause irreparable HARM".
04) page 06 of 12; item #28: "to be irreparably HARMED".
05) page 06 of 12; item #33: "to cause irreparable HARM".
06) page 06 of 12; item #33: "to be irreparably HARMED".
07) page 08 of 12; item #44: "My sales....been DAMAGED".
08) page 08 of 12; item #45: "I will....to suffer DAMAGE".
09) page 10 of 12; item #60: "My sales....been DAMAGED".
10) page 10 of 12; item #61: "I will....to be DAMAGED...".
11) page 07 of 12; item #38: "NO OTHER PERSON is permitted to register domain names under these top-level domain names".
12) page 07 of 12; item #42: "illegal contract that LESSENS COMPETITION in the domain-name registration market".
13) page 07 of 12; item #43: "DENIED ACCESS to other sources".
14) page 8 of 12; item #51: "Defendant has the ability to INFLUENCE PRICES and/or output of key top-level domain-names".
15) page 9 of 12; item #55: "Defendant...influence PRICES".
16) page 9 of 12; item #56: "Defendant...influence PRICES".

Does the Supreme Court agree with "Watts' Principle"?

"WATTS' PRINCIPLE" is that a Trademark should be protected by the U.S. Government whether the mark is used on the radio, newspaper, television, billboards, or the Internet. The Internet is U.S. Commerce. Billions of dollars every year are exchanged in goods and services on the Internet.

Now, if the Internet has Commerce, and the U.S. Department of Commerce regulates Commerce in the United States, then it must regulate Commerce on the Internet.

Now, if the U.S. Department of Commerce regulates Commerce on the Internet, then it must regulate the Trademarks that are used on the Internet to distinguish the various Commerce-Goods and Commerce-Services that are bought and sold on the Internet.

Now, if the U.S. Department of Commerce regulates various Trademarks , which distinguish various goods and services in Commerce, then it must regulate Network Solutions, and the "domain-name registrations", and the U.S. Commerce Department must enforce the Trademark Laws--even if NSI violates them. They are not above the law--at least they should NOT be above the law.

NSI must not be allowed to violate the laws of the United States, just because, as U.S. Federal Court Judge Hamilton defends them on page 9 of his "Final Judgement" by saying: "NSI does not have the resources, expertise, or authority to review, analyze, or pre-screen requested domain names for compliance with the Trademark Laws...".

"NSI DOES NOT HAVE THE RESOURCES" TO COMPLY WITH THE UNITED STATES TRADEMARK LAWS.

Can you believe that comment? Can you believe that a billion-dollar U.S. Corporation said it? Can you believe that a U.S. Federal Court Judge also said it?

"Watts' Principle" says: "how about 'NO' NSI, okay"?

"Watts' Principle" asks for the use of his mark on the Internet.

What did Federal Court say about "Trial-by-Jury" request?

NOTHING!

U.S. Federal Court Judge Hamilton did not say anything about Watts' request for a "Trial-by-Jury". U.S. Federal Court Judge Hamilton in his "Final Judgement" did not address Watts' request for a "Trial-by-Jury" at all. Judge Hamilton did not say that he agreed with the 7th Amendment to the Constitution, which guarantees me a "Trial-by-Jury", nor did Judge Hamilton say that he disagreed with the 7th Amendment to the Constitution, which guarantees me a "Trial-by-Jury"; Judge Hamilton ignored my demand for a "Trial-by-Jury", which means that he is also ignoring the U.S. Constitution.

What did Appeals Court say about "Trial-by-Jury" request?

NOTHING!

The U.S. Court of Appeals Court Judges in Chicago, named:

1) Hon. Harlington Wood, Jr., Circuit Judge
2) Hon. Joel M. Flaum, Circuit Judge
3) Hon. Terence T. Evans, Circuit Judge

ALL SAID NOTHING to my demand for a "Trial-by-Jury".

On page 3 of the U.S. Court of Appeals "Order", they say:

"Finally, Watts argues that the district court erroneously granted NSI's motions because it failed to (1) read all of his paperwork, (2) give him a trial by jury, (3) docket all of his paperwork, and (4) send him transcripts from a pre-trial conference."

"However, our review of the record and the district court's order shows that the district court carefully considered Watts' claims. Watts' contentions of improper actions taken by the district court are unsubstantiated and appear to arise from his lack of familiarity with the Federal Rules of Civil Procedure and the use of legal precedent to decide cases".

I do not understand how I "lack familiarity" with the 7th Amendement to the U.S. Constitution, which guarantees me a "Trial-by-Jury" if the amount-in-dispute exceeds $20.00, which it does. From their own mouths, the three Appeals Court Judges admit that I requested a "Trial-by-Jury", and they say that I "lack familiarity with the Federal Rules of Civil Procedure", but I even referenced Rule 38 of the Federal Rules of Court Procedure, and the 7th Amendment to the U.S. Constitution, which guarantees me a "Trial-by-Jury".

Is Network Solutions exempt from U.S. Trademark Laws?

****

Judge Hamilton says so on page 9 of his "Final Judgement":

"NSI does not have the resources, expertise, or authority to review, analyze, or pre-screen requested domain names for compliance with the trademark laws...".

****

Network Solutions says so in their "Briefs" to Judge Hamilton:

"NSI does not have the resources, expertise, or authority to review, analyze, or pre-screen requested domain names for compliance with the trademark laws...".

****

First, please notice that the Judge concluded that NSI does not have the time or money to comply with U.S. Trademark Laws.

Second, please notice that NSI has concluded that they do not have the time or money to comply with U.S. Trademark Laws.

Third, please notice that the words that the Judge uses are exactly the same words that NSI uses, but that the Judge does not quote NSI; he uses the words without quoting a source; as a matter of "fact", he makes this bold statement under section 3, page 8: "FINDINGS OF UNDISPUTED FACT".

****

If whoever reads this "Question 19 page" does not see the irony in this, then I have failed to communicate to the reader that "Houston, we have a problem".

Will the Supreme Court please read Appeals Court ruling?

Page 3 of the U.S. Court of Appeals states: "Watts presented no evidence, however, that NSI knew that Schwab was engaging in Trademark Infringement".

This is a lie or mis-statement of the truth.

1) 10/98 Watts sent NSI a memo asking NSI to register Watts as the rightful trademark owner of the domain name that Schwab had stolen from him, because Watts used the mark FIRST in commerce in the United States.

2) 10/98 Watts sent NSI a copy of his application to the Patent and Trademark Office, proving that Watts used his mark FIRST in commerce in the United States. Watts also sent copies of this application, and the proof of delivery to NSI, to U.S. Federal Court Judge Hamilton, and to the U.S. Appeals Court in Chicago.

3) Page 10 of Judge Hamilton's "Final Judgement", admits that: "Watts contacted NSI in writing and informed NSI of his claim to the Trademark 'BIRTHDAY BALLOONS'".

4) 8/99 Appellee Brief, page 11, Judy Woods says to the U.S. Court of Appeals: "Network Solutions does not deny that Watts contacted it...".

5) Watts sent via U.S. Certified Mail, return-receipt, a copy of the Judgement against the cybersquatter, to NSI, to Judge Hamilton, and to the Appeals Court in Chicago, which is a judgement against the cybersquatter for damages to Watts for Trademark Infringement by Schwab.

Therefore Watts did provide NSI with evidence and proof that Schwab was engaging in Trademark Infringement (and still is), but more importantly, NSI is also engaging in Trademark Infringement--which Watts claims is the real issue here--a MONOPOLY that is allowed to infringe on the Trademark rights of others because the courts are condoning their actions.

What is the law about "Domain-Name Trademarks"?

Page 10 of 11 from the Web-page "www.USPTO.gov", entitled "Examination Guide No. 2-99, with a sub-title, "Adding or Deleting TLDs in Domain Name Marks", says:

"Generally, for domain name marks (e.g., COPPER.COM), the applicant may add or delete a TLD (top-level domain, which is after the "dot", such as ".COM") to the drawing of the mark without materially altering the mark. A mark that includes a TLD will be perceived by the public as a domain name, while a mark without a TLD will not. However, the public recognizes that a TLD is a universally-used part of an Internet address. As a result, the essence of a domain name mark is created by the second level domain name (which is before the "dot", such as COPPER), not the TLD. The commercial impression created by the second level domain name usually will remain the same whether the TLD is present or not.

"Example: Amending a mark from PETER to PETER.COM would NOT materially change the mark because the essence of both marks is still PETER, a person's name."

Therefore my mark: BIRTHDAY BALLOONS, which I used FIRST in commerce cannot be registered by a different person on the Internet as a new Trademark, but rather it would then be a stolen Trademark, used on the Internet by a "cybersquatter", unless registered by the owner of the original Trademark, which would be Watts.

Watts would like to register his Trademark on the Internet, but a cybersquatter registered my name on the Internet, and when I asked him and the registering company, called NSI (or Network Solutions), to register Watts as the owner of the domain-name, they both ignored me, and for the past two years, they have ignored me, and will not give me my name back. And since NSI is a MONOPOLY, there are no competitors to turn to as alternatives.

Please put my name on the Internet: "BirthdayBalloons.com".

Please order NSI to register Watts as the domain name owner.

Is Network Solutions guilty of "Trademark Infringement"?

Q1) What is a trademark?

A1) According to the Patent and Trademark Office Booklet: "It is a word, phrase, symbol or design, or combination of words, phrases, symbols or designs, which identifies and distinguishes the source of the goods or services of one party from those of others".

Q2) How do I establish trademark rights?

A2) According to the Patent and Trademark Office Booklet: "Trademark rights arise from either (1) actual use of the mark, or (2) the filing of a proper application to register..."; "FEDERAL REGISTRATION IS NOT REQUIRED TO ESTABLISH RIGHTS IN A MARK, NOR IS IT REQUIRED TO BEGIN USE OF A MARK".

"Please note that Bruce Watts began using the mark on 1/1/98.
Note that Watts began using the mark in Commerce 7/7/98.
Watts mailed his application to the PTO on 7/7/98.
The cybersquatter registered the domain name with NSI 8/98.
Watts was FIRST to use his mark in commerce in the USA.

Q3) How do I inform another to stop infringing on trademark?

A3-01) 10/98 Watts called NSI to ask them to stop infringing.
A3-02) 10/98 Watts faxed a memo to NSI to claim rights.
A3-03) 10/98 Watts E-mailed NSI to inform them of rights.
A3-04) 10/98 Watts sent U.S. Certified Mail return-receipt.
A3-05) 10/98 Watts called NSI again about trademark rights.
A3-06) 10/98 Watts called NSI's "Dispute Department".
A3-07) 10/98 Watts called NSI's "Dispute Department" again.
A3-08) 10/98 Watts mailed trademark application copy to NSI.
A3-09) 10/98 Watts sued NSI for "Trademark Infringement".
A3-10) 10/98 Watts mailed a copy of judgement against cybersquatter to NSI. Judgement against the cybersquatter was for "Trademark Infringement Damages".

Q4) How do we stop NSI from infringing on trademarks?

A4)_____
Would the SUPREME COURT please answer question #Q4?

Does Network Solutions ADMIT Trademark Infringement?

A) On page 2 of the "Brief of Appellee", NSI ADMITS that "the original complaint was brought on the basis of a claim of Trademark Infringement...".

B) On page 245 of NSI's "Appendix to Brief of Appellee", NSI shows a copy of the memo that Watts sent to NSI on 10/27/98, ADMITTING that they knew that Watts was filing a "Trademark Infringement" lawsuit against the alleged "cybersquatter", Steve Schwab.

C) In "A" above, NSI ADMITS that it knew that Watts was suing NSI for "Trademark Infringement" .

D) The Lanham Act prohibits unauthorized 'use in commerce' of a trademark 'in connection with the sale, offering for sale, distribution, or advertising of goods or services' or affixing a 'false designation of origin, false or misleading description' to any goods or services 'used in commerce'". 15 U.S.C. § 1114(1) and §1125(a), respectively.

E) Watts is the correct "designations of origins" for the marks, "BirthdayBalloons", and "BirthdayBalloons.com", not Schwab; and NSI is the one advertising the "false labelling" to the entire world over the Internet. NSI ADMITS that they control 100% of four of the top-level domain name registration-systems, which any average American would define as a MONOPOLY.

F) On page 9 of NSI's "Brief of Appellee", NSI ADMITS that "Network Solutions does not have the resources or expertise to review, analyze or pre-screen requested domain names for compliance with various trademark laws...'.

G) On page 5 of NSI's "Brief of Appellee", NSI ADMITS: "and any allegations regarding Schwab are irrelevant to this action", but Schwab is the cybersquatter that WE RECEIVED A JUDGEMENT AGAINST FOR TRADEMARK INFRINGEMENT; AND NSI IS ALSO GUILTY OF TRADEMARK INFRINGEMENT BY ADVERTISING AND AFFIXING FALSE "DESIGNATIONS OF ORIGINS" TO MY TRADEMARK.

Should NSI affix FALSE "designations of origins"?

"The Lanham Act prohibits affixing a 'false designation of origin, false or misleading description' to any goods or services 'used in commerce'". 15 U.S.C. § 1114(1) and § 1125(a). NSI has attached a "false designation of origin" for my trademark, advertising Schwab as the owner of my mark.

Network Solutions knowingly and illegally "ATTACHED A FALSE DESIGNATION OF ORIGIN", or had knowledge at a later date that they had "attached a false designation of origin", to Bruce Watts' trademark: "Birthday Balloons", thereby violating the Lanham Act, which they are still doing, after almost two years of litigation.

NSI still claims ignorance to Watts' "trademark infringement" claims; NSI still claims ignorance to Watts' judgement against the cybersquatter for "trademark infringement"; NSI still thinks that they are part of the U.S. Government; NSI still claims that no commerce is conducted on the Internet; NSI still claims not to be a MONOPOLY, even though they admit that they have exclusive control over 100% of four top-level domains; NSI still says that Watts does not have a trademark; NSI still claims that they do not have the time or money to comply with U.S. Trademark laws; NSI still claims that Watts has no rights; NSI still forces new "domain-name applicants" to sign illegal contracts--forcing applicants to agree with NSI's "Dispute Policy" which says that NSI can change their policy at any time, but that the applicant can change nothing; NSI still has an illegal contract with the U.S. Department of Commerce that gives them 100% MONOPOLY control over four of the top-level domains; NSI still says that trademark owners have no control over their own trademarks, because NSI DOES NOT CARE!!! As long as the U.S. Government continues to condone the actions of NSI, and allow NSI to collect $100.00 for each of the 300,000 to 500,000 monthly domain-name registrations (ALMOST 1 BILLION DOLLARS YEARLY), NSI will continue to infringe on the trademark rights of others.

Should NSI affix FALSE "designations of origins"?

LIES, LIES, LIES; IS IT WRONG TO LIE?

1) NSI said that it never received notice from Watts that there was a trademark dispute, then said that it did receive correspondence from Watts, but that Watts never claimed trademark infringement; and now, after almost two years of litigation, still claims not to know that Schwab is a cybersquatter--infringing on Watts' Trademark--even after we sent them a copy of the judgement against Schwab FOR TRADEMARK INFRINGEMENT DAMAGES. LIES.

2) NSI said that they are part of the U.S. Government, and therefore immune from prosecution, and Judge Hamilton agreed with them, but the U.S. Court of Appeals said that NSI is NOT part of the U.S. Government. LIES, LIES, LIES.

3) NSI said that no commerce is conducted on the Internet, and therefore U.S. Department of Commerce Trademark Laws do not apply--but billions of dollars in commerce are exchanged on the Internet in the United States every year. LIES.

4) Judge Hamilton said that Watts never filed suit against the "alleged cybersquatter", but I sent him a copy of the lawsuit and a copy of the judgement against Steve Schwab FOR TRADEMARK INFRINGEMENT. Also, during the pretrial hearing, Judge Hamilton asked the chief counsel for NSI if he knew of the lawsuit against the cybersquatter, and he said yes, but the fact that the Judge asked if he knew, meant that the Judge knew. LIES, LIES, LIES.

5) NSI, Judge Hamilton, and the three Judges from the U.S. Court of Appeals deny receiving a copy of the judgement against the cybersquatter for trademark infringement, even though I also sent copies of the receipts from the certified delivery, proving that each received a copy of the judgement.

6) The Court of Appeals says that Watts presented no evidence, but Watts sent copies of documents that he sent to NSI in 10/98--proof that Watts called numerous times, faxed, E-mailed, sent Certified Mail, filed lawsuits, sent proof of lawsuits and proof of the judgement to NSI. LIES, LIES, LIES.

7) The U.S. Court of Appeals says that Watts did not claim injury, but the "Amended Complaint" claims injury numerous times, which are elaborated on in "Question 15" (this petition).

What is "Watts' Solution" to domain-trademark problem?

"Only U.S. Federally Registered Trademarks on the primary and/or supplemental registers at the U.S. Department of Commerce, Patent and Trademark Office, should be allowed on the Internet as second-level domain-names. Period."

The purpose of a mark in commerce, is to identify its goods and/or services, and to distinguish it from others in commerce.

If the purpose of a domain name is the same as a trademark in commerce, then it should be administered the same--with the same rights in commerce as a trademark; the only difference is that a domain name is used on the Internet, which virtually everyone knows is used to conduct commerce.

The only person/entity that would object to this "SOLUTION" is "NETWORK SOLUTIONS" because they are making almost a billion dollars a year registering almost any name to almost anybody--as long as they get their $100.00 filing fee.

NSI likes the "first come-first served" philosophy, which is also the law; "first come-first served" with a trademark used first in commerce in the United States--not first with NSI!

NSI is a MONOPOLY that is causing chaos in the domain-name registration business because it loves money--and the Bible, which is God's Word, says that "the love of money is the root of all evil".

The U.S. Department of Commerce regulates Patents.
The U.S. Department of Commerce regulates Trademarks.
The U.S. Department of Commerce regulates Copyrights.
The U.S. Department of Commerce regulates Commerce.

The U.S. Department of Commerce is suppose to regulate commerce on the Internet, and the domain-names that identify various goods and/or services on the Internet; now they simply need to enforce the regulations. To help simplify the domain-trademark issue, why not implement "WATTS' SOLUTION" described above in the first paragraph?

What is the purpose of unenforceable Trademark laws?

"A Trademark is either a word, phrase, symbol or design, or combination of words, phrases, symbols or designs, which identifies and distinguishes the source of goods or services of one party from those of others.

"Trademark rights arise from either (1) actual use of the mark, or (2) the filing of a proper application to register a mark in the Patent and Trademark Office (PTO) stating that the applicant has a bona fide intention to use the mark in commerce regulated by the U.S. Congress.

"FEDERAL REGISTRATION IS NOT REQUIRED TO ESTABLISH RIGHTS IN A MARK, NOR IS IT REQUIRED TO BEGIN USE OF A MARK".

The above three-paragraph quotation is from the U.S. Department of Commerce, Patent and Trademark Office booklet, entitled: "Basic Facts about Registering a Trademark", Revised October, 1994.

NSI IS INFRINGING ON WATTS' TRADEMARK RIGHTS

01) 08/90 God gave Bruce Watts a balloon-patent idea.
02) 01/98 God gave Watts the name: "Birthday Balloons".
03) 1990sWatts spent $100,000.00 developing invention.
04) 07/98 Watts FIRST USED MARK IN COMMERCE.
05) 07/98 Watts mailed Federal Trademark Application.
06) 07/98 Watts mailed balloon samples to Connecticut.
07) 08/98 Schwab AND NSI mis-registered Watts mark.
08) 10/98 Watts called NSI to ask them to stop infringing.
09) 10/98 Watts faxed a memo to NSI claiming rights.
10) 10/98 Watts E-mailed NSI to inform them of rights.
11) 10/98 Watts sent U.S. Certified Mail return-receipt.
12) 10/98 Watts called NSI again about Trademark rights.
13) 10/98 Watts called NSI's "Dispute Department".
14) 10/98 Watts called NSI's "Dispute Department" again.
15) 10/98 Watts mailed Trademark application copy to NSI.
16) 10/98 Watts sued NSI for "Trademark Infringement".
17) 01/99 Watts mailed a copy of the judgement against the cybersquatter to NSI. The JUDGEMENT against the cybersquatter was for "Trademark Infringement Damages".

NSI IS INFRINGING ON WATTS' TRADEMARK RIGHTS

How do I explain this injustice to my wife and children?

Bruce Watts tried to explain this precarious predicament to his wife and children. I told them that God gave me a patent-idea and then a trademark-name for the invention so that people would be able to identify our product with our name. And that we were FIRST to use our mark in commerce in the USA.

We hired a patent attorney, then mailed a trademark application to the U.S. Patent and Trademark Office TO PROTECT OUR PATENT AND TRADEMARK RIGHTS.

Then, after years of developing the invention, Watts mailed balloon-samples to wholesale florists in Connecticut to "test the water"; but unfortunately sent one to Steve Schwab, who stole our name from the packaging, and then registered our name on the Internet, as his name. Bruce called the computer-company, and asked them to re-register the domain-name, "BirthdayBalloons.com", correctly listing Bruce Watts as the owner of the domain-name, as well as the trademark, since the U.S. Patent and Trademark Office says they are virtually the same, except that one is used on the Internet.

NSI, the computer company, told me that my problem was with the cybersquatter, and not the computer company. NSI said that their job was merely to register 300,000+ domain-names each and every month at a reasonable fee of $100.00 each, which generates at least 30 million dollars every month, or almost ONE BILLION DOLLARS PER YEAR, but that they had no reason to comply with trademark infringement laws. They said that their job was simply to register domain-names and collect lots of money. They also informed me that they had exclusive control of 100% of the ".com" registrations, which would make them a MONOPOLY, so that they had no competition, so that there was nothing that I could do.

My oldest boy Brian told me that his Government class teacher taught him that the 7th Amendment to the U.S. Constitution promised every American a "Trial-by-Jury" if the dollar amount in question is over $20.00, and especially since I originally requested a "Trial-by-Jury" in the "Amended Complaint" that I filed with the Federal Court in Indianapolis.

My wife and children agreed with me, that I should appeal to The United States Supreme Court, hoping for some justice.

Will the Supreme Court please give me my name back?

"BIRTHDAY BALLOONS" was first used by Watts in commerce in the United States.

BirthdayBalloons.com
BirthdayBalloons.edu
BirthdayBalloons.net
BirthdayBalloons.org
BirthdayBalloons.gov
BirthdayBalloons.cc

THERE ARE ABOUT 500 TOP-LEVEL DOMAIN NAMES.

~500 DOMAIN-NAMES X $100 EACH = $50,000 YEARLY

~500 "DESIGNATIONS OF ORIGINS" = CHAOS.

Call NSI yourself and say that you want to register a mark. After you register a domain-name, they will try to "increase sales" by suggesting that you also BUY A FEW MORE TOP-LEVEL DOMAIN-NAMES WITH THE SAME SECOND-LEVEL DOMAIN NAME. If the U.S. Government would allow NSI to sell and register all 500+ top-level domain names, they would, just as they are now selling all four top-level domain names that the U.S. Department of Commerce has agreed to let them sell and register.

If the U.S. Trademark laws do not protect the rights of the owner of the mark, so that he/she can use the mark in commerce in the United States, without confusing the consumer as to the "designations of origins" of the various marks, then what is the purpose of a trademark? If 500+ DIFFERENT people can register the trademark "COKE®", there would be 500+ different "designations of origins", meaning that 500+ different web-sites would give consumers 500+ addresses for possibly 500+ different products made using 500+ different recipes, with 500+ different owners.

What is the purpose of a trademark?

Will the Supreme Court please give me my name back?

Will the Supreme Court please grant "Writ of Certiorari"?

Black's Law Dictionary says for "Certiorari" on page 228, sixth edition, 1991:

"CERTIORARI / Lat. To be informed of. A writ of common law origin issued by a superior court to an inferior court requiring the latter to produce a certified record of a particular case tried therein. The writ is issued in order that the court issuing the writ may inspect the proceedings and determine whether there have been any irregularities. It is most commonly used to refer to the Supreme Court of the United States, which uses the 'writ of certiorari' as a discretionary device to choose the cases it wishes to hear. See 28 U.S.C.A. § 1254. The Supreme Court denies most 'writs of certiorari' (i.e. 'cert. den.'). The trend in state practice has been to abolish such writ. See also 'Writ of Certiorari'".

Hopefully the preceding 30 questions and answers will persuade the U.S. Supreme Court that there have been "irregularities" in the U.S. Federal Court of Indianapolis, and in the U.S. Court of Appeals in Chicago.

Please bear in mind that this is a national problem affecting millions of Americans on the Internet, with probably tens of thousands, if not hundreds of thousands of Americans directly affected by the MONOPOLY of "Network Solutions" affixing FALSE "designations of origins" for domain-names on the Internet, listing false owners of trademarks, causing confusion and "legal theft" of intellectual property, in violation of the U.S. Federal Lanham Trademark Protection Act.

Also, please uphold the U.S. Constitution, which guarantees me a "Trial-by-Jury" (7th Amendment), which I requested to the U.S. Federal Court in Indianapolis, and also to the U.S. Court of Appeals in Chicago, but was denied both times.

Please affirm my right to a "Trial-by-Jury", or simply overturn the "Final Judgement", and award us your Judgement.

B - D. Watts

Thank-you, sincerely, Bruce D. Watts. 2/10/00*
*Originally submitted 1/10/00; Ruth Jones of the Supreme Court asked us to add the "Final Judgement" to the appendix and resubmit within 60 days from 1/27/2000.

APPENDIX TO SHOW JUDGEMENT #1

STATE OF INDIANA) In the Wayne County Superior
) Court No. 3 1998 Term
COUNTY OF WAYNE) Cause No. 89D03-9810-SC-2414

BIRTHDAY BALLOONS
BRUCE WATTS 6911 Palmer Road
Greens Fork, IN 47345-8720 (actually 47345-9720)
PLAINTIFF
VS
STEVE SCHWAB
7 PADANARAM #236
DANBURY, CT 06811
DEFENDANT

JUDGEMENT BY DEFAULT

Comes now the Plaintiff herein, and on December 23, 1998 filed their verified Petition for Entry of Default (H.I.) and the Court having considered same, the Notice of Claim and return thereof; and being duly advised in the premises now finds:

That Plaintiff's Petition for Entry of Default should be entered for the Plaintiff as follows to wit:

IT IS THEREFORE, HEREBY ORDERED, ADJUDGED, AND DECREED by the Court that Plaintiff recover of and from Defendant the sum of $3,000.00 plus $35.00 COURT COSTS Judgement Interest

"s/ William C. Hoelscher"
JUDGE, SUPERIOR COURT NO. 3

Dated: JAN 08 1999

I hereby Certify that I mailed a copy of the above Judgement to the Plaintiff and the Defendant on

JAN 08 1999

BARBARA WIDAU, Deputy Clerk
Wayne Superior Court No. 3

(PLEASE NOTE THAT THE ORIGINAL LAWSUIT FOR TRADEMARK INFRINGEMENT DAMAGES WAS FILED ON DEC 23, 1998, AND AWARDED ON JAN 08, 1999.)

APPENDIX TO SHOW JUDGEMENT #2

STATE OF INDIANA) In the Wayne County Superior
) Court No. 3 1998 Term
COUNTY OF WAYNE) Cause No. 89D03-9810-SC-2414

BIRTHDAY BALLOONS
BRUCE WATTS 6911 Palmer Road
Greens Fork, IN 47345-8720 (actually 47345-9720)
PLAINTIFF
VS
STEVE SCHWAB
7 PADANARAM #236
DANBURY, CT 06811
DEFENDANT

JUDGEMENT BY DEFAULT

Comes now the Plaintiff Herein, and on April 22, 1999 filed their verified Petition for Entry of Default (H.I.) and the Court having considered same, the Notice of Claim and return thereof; and being duly advised in the premises now finds:

That Plaintiff's Petition for Entry of Default should be entered for the Plaintiff as follows to wit:

IT IS THEREFORE, HEREBY ORDERED, ADJUDGED, AND DECREED by the Court that Plaintiff recover of and from Defendant the sum of $3,000.00 plus $35.00 COURT COSTS Judgement Interest, Plus Interest from October 1, 1998 at 20% to date of judgement.

"s/ Wiliam C. Hoelscher"
JUDGE, SUPERIOR COURT NO. 3

Dated: MAY 12, 1999

I hereby Certify that I mailed a copy of the above Judgement to the Plaintiff and the Defendant on

MAY 12, 1999

BARBARA WIDAU, Deputy Clerk
Wayne Superior Court No. 3

(PLEASE NOTE THAT THIS JUDGEMENT HAS THE SAME CAUSE NUMBER AS THE FIRST JUDGEMENT ; AND WE DID NOT FILE A NEW PETITION)

Appendix: U.S.P.T.O "Trademark Application"

Applicant's Name: Bruce D. Watts

Applicant's Address: 6911 Palmer Rd, Greens Fork, IN 47345

Goods: mail-order gift-balloons

Date of first use: January 1st, 1998

Date of first use in commerce: July 7th, 1998

BIRTHDAY BALLOONS

Sent U.S.P.S. Certified-Mail Return-Receipt #Z-344-398-994

Mailed 7-7-98

Serial Number received: 75-529793

Federally Registered Trademark Pending
(note: according to U.S. Federal Law, Bruce Watts already has a trademark since he used the mark FIRST in U.S. Commerce).

Mailed to: Assistant Commissioner for Trademarks
United States Department of Commerce
Patent and Trademark Office
Box: New App/Fee
2900 Crystal Drive
Arlington, VA 22202-3513

Mailed with fee and three articles to prove that we used the mark FIRST in Interstate Commerce in the United States.

Appendix: "Amended Complaint" filed 1/22/99.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

BRUCE WATTS 6911 Palmer Road Greens Fork, Indiana 47345 (an individual), Plaintiff,	)	Case No. IP98-1529-C H/G
v.	)	
NETWORK SOLUTIONS, INC. 505 Huntmar Park Drive Herndon, Virginia 20170, (a Virginia Corporation), Defendant.	)	

AMENDED COMPLAINT

I, Bruce Watts, am an individual, complain of Network Solutions, Inc. based upon the following:

THE PARTIES AND JURISDICTION

The Parties:

1. I, Bruce Watts, an individual residing at 6911 Palmer Road, Greens Fork, IN 47345, and I am a United States citizen.

2. Upon information and belief, Defendant, Network Solutions, Inc. (hereinafter "NSI") is a corporation incorporated under the laws of the State of Virginia that has its principal place of business at 505 Huntmar Park Drive, Herndon, Virginia 20170.

Jurisdiction:

3. Upon information and belief, Defendant NSI does business in the Southern District of Indiana and by its conduct has caused and is causing tortious injury to me in this district.

4. The present action arises under the laws of unfair competition, dilution, service mark infringement, and infringement anti-trust under applicable federal and state laws including, inter alia, Title 15 U.S.C. § 1125; Title 15 U.S.C. §§ 1-2; Title 15 U.S.C. § 15(a), the common law of the State of Indiana; and the Indiana Code Annotated §§ 24-2-1-15.

5. This Court has original jurisdiction over the claims set forth herein against the Defendant pursuant to 15 U.S.C. § 1121; 15 U.S.C. § 4; 15 U.S.C. § 15; 28 U.S.C. § 1331. 1337(a), 1338(b); and pursuant to the Court's supplemental jurisdiction under 28 U.S.C. § 13674.

6. Defendant is subject to the personal jurisdiction of this Court. Defendant has not only committed acts that have caused tortious injury in this Judicial District, but by its Motion to be substituted dated November 23, 1998, NSI consented to the personal jurisdiction of this Court.

7. Venue in this Judicial District with respect to the claims set forth herein against the Defendant is proper pursuant to 28 U.S.C. §§ 1391(b)-(c) and 1400. Defendant is subject to personal jurisdiction in this Judicial District and therefore resides in this Judicial District for purposes of 28 U.S.C. § 1391.

The Trademark at Issue

8. I am involved in, among other things, the sale of gift boxes that include chocolates or another type of candy, a self-inflating balloon, and a personalized gift message.

9. My business produces the gift packages by packing the candy in gift boxes, writing and enclosing a personalized greeting, and installing a self-inflating balloon in the gift-package. I have been in this business for many years and have developed my own self-inflating balloon mechanism, which is the subject of U.S. Patent No. 5,579,813 .

10. I am currently the owner of U.S. Trademark Nos. 1,982,261 and 1,681,550 for the mark of BIRTHDAY CHOCOLATES. Since I obtained my patent, I have been focusing on marketing and selling my gift packages that incorporate a balloon and I want a mark to identify these goods.

11. Therefore, at least as early as July 7, 1998, I adopted and began using the mark BIRTHDAY BALLOONS to market and sell my gift packages that incorporate my self-inflating balloon mechanism.

12. My BIRTHDAY BALLOONS mark is distinctive and has become a famous mark.

13. I have been using and continue to use my BIRTHDAY BALLOONS mark in both intrastate and interstate commerce in Indiana and the United States.

14. I have expended considerable resources in promoting my BIRTHDAY BALLOONS mark to obtain the goodwill now associated therewith.

The Domain Name at Issue

15. In an effort to market my BIRTHDAY BALLOONS mark and the goods sold thereunder on the Internet, I decided to seek a domain name registration for "birthdayballoons.com" from the Defendant.

16. After I submitted my domain name registration form, NSI told me that the domain name birthdayballoons.com was not available because it was registered to a person named Steve Schwab residing at 7 Padanaram #236, Danbury, Connecticut 06811.

17. I immediately contacted Mr. Schwab by e-mail and informed him of my trademark rights in the BIRTHDAY BALLOONS mark. I also demanded that he immediately cease and desist from further use of the BirthdayBalloons.com domain name.

18. I also contacted NSI several times by mail, e-mail, by fax, and by regular mail to inform them of my rights in the BIRTHDAY BALLOONS mark and the fact that I had contacted the registrant Steve Schwab to demand that he cease use of the BirthdayBalloons.com domain name.

19. I never received any substantive response from either NSI or Mr. Schwab, and on October 27, 1998, I filed small claim actions in Wayne Superior Court #3 in Richmond, Indiana against both NSI and Steve Schwab each for the amount of $3000.00 plus interest, attorney fees, and the costs of the action.

20. On January 8, 1999, I obtained a default judgement against Mr. Schwab for $3000.00 plus court costs and interest.

21. The small claim that I filed against NSI, by suing its employee Leslie Gutowski, was removed to this Court on November 9, 1998 at the request of NSI, and that removal has resulted in the present action.

Defendant's Acts

22. Upon information and belief, despite being repeatedly contacted by me by fax, mail, telephone, and e-mail, NSI has not placed Mr. Schwab's domain name "on hold" which would indicate that Mr. Schwab could use the BirthdayBalloons.com domain name until and unless my dispute with him is resolved.

23. Uon information and belief, Defendant NSI has at no time offered to revoke Mr. Schwab's domain name registration and transfer that registration to me.

24. Upon information and belief, NSI has also failed to deposit the BirthdayBalloons.com domain name into the registry of this Court pending the resolution of this dispute.

25. Upon information and belief, NSI continues to supply a domain name to Mr. Schwab who it knows or has reason to know by virtue of my repeated correspondence with NSI is engaged in trademark infringement and unfair competition.

Count I: Federal Contributory Unfair Competition

26. I incorporate by reference into Count I the averments contained in paragraphs 1 through 25 hereof, as if fully rewritten and set forth herein.

27. On information and belief, Defendant's persistence in supplying a domain name to one who it knows or has reason to know is engaging in trademark infringement and unfair competition constitutes contributory unfair competition in violation of the Lanham Act, Title 15 U.S.C. § 1125.

28. On information and belief, Defendant's activities have been willful, deliberate, and intentional, and they have caused and continue to cause irreparable harm to my business, goodwill, and reputation. My business, goodwil, and reputation have

been and will continue to be irreparably harmed by Defendant's activities unless Defendant is enjoined.

29. Defendant will, on information and belief, continue its unlawful activities unless enjoined.

30. My remedy at law is inadequate.

Count II: Common Law Contributory Unfair Competition

31. I incorporate by reference into Count II the averments contained in paragraphs 1 through 30 hereof, as if fully rewritten and set forth herein.

32. On information and belief, Defendant's persistence in supplying a domain name to one who it knows or has reason to know is engaging in trademark infringement and unfair competition constitutes contributory infringement and unfair competition in violation of the common laws of the State of Indiana. NSI's activities constitute contributory misappropriation of my proprietary right and goodwill in and to my gift package sales and my mark BIRTHDAY BALLOONS.

33. On information and belief, Defendant's activities have been willful, deliberate, and intentional, and they have caused and continue to cause irreparable harm to my business, goodwill, and reputation. My business, goodwill, and reputation have been and will continue to be irreparably harmed by Defendant's activities unless Defendant is enjoined.

34. Defendant will, on information and belief, continue its unlawful activities unless enjoined.

35. My remedy at law is inadequate.

COUNT III: SHERMAN ACT SECTION I VIOLATION

36. I incorporate by reference into Count III, the averments contained in paragraphs 1 through 35 hereof, as if fully rewritten and set forth herein.

37. Defendant has formed and engaged in an unlawful alliance and combination in restraint of trade with the National Science Foundation (since transferred to the U.S. Department of Commerce), by means of Defendant's exclusive contract with the National Science Foundation (since transferred to the U.S. Department of Commerce) for the privilege of registering the ".com", ".net", ".org" and ".edu" top-level domain names.

38. On information and belief, no other person is permitted to register domain names under these top-level domain names other than Defendant.

39. As admitted by Defendant in its factual synopsis attached to the Case Management Plan for this case, [m]ost businesses with presence on the Internet use the ".com" top-level domain, [and] Internet users intuitively try to find businesses by typing in the corporate or trade name as in (acme.com).

40. On information and belief, NSI is compensated for its registration services by the registrant of every domain name having a top-level domain name controlled by NSI.

41. On information and belief, Internet domain names, and websites that they identify, represent a significant portion of the business conducted and information disseminated in the United States and around the world.

42. The relationship between the National Science Foundation (since transferred to the U.S. Department of Commerce) and NSI constitutes an illegal contract that substantially lessens competition in the domain name registration market.

43. Such actions and relationships substantially affect interstate commerce because consumers of the top-level domain names controlled by NSI and the National

Science Foundation (since transferred to the U.S. Department of Commerce) are denied access to other sources for these top-level domain names and are denied access to reasonable policies for resolving domain name ownership disputes.

44. My sales of my gift packages and my BIRTHDAY BALLOONS mark have been damaged as a direct result of NSI's activities in restraint of trade, because I have not been able to conduct business for these goods over the Internet.

45. I will continue to suffer damage unless NSI's activities in restraint of trade are enjoined.

46. On information and belief, NSI's activities have been willful, intentional, and deliberate.

47. On information and belief, NSI will continue its unlawful activities unless enjoined.

48. NSI's activities constitute a violation of the Sherman Act, Title 15 U.S.C. § 1.

49. My remedy at law is inadequate.

Count IV: Sherman Act Section 2 Violation-Monopolization

50. I incorporate by reference into Count IV the averments contained in paragraphs 1 through 49 hereof, as if fully rewritten and set forth herein.

51. On information and belief, Defendant has the ability to influence prices and/or output of key top-level domain names throughout the geographic market of the United States.

52. On information and belief, Defendant has the ability to influence prices and/or output of key top-level domain names throughout the market for these particular key top-level domain names.

53. On information and belief, Defendant's exclusive control over these key top-level domain names, the fact that it registers hundreds of thousands of these Internet domain names per month, and the fact that through its alliance with the National Science Foundation (since transferred to the U.S. Department of Commerce) there exist no competitiors for NSI's registration of these key top-level domain names give the Defendant market power in the relevant market for these key top-level domain names.

54. On information and belief, Defendant's exclusive control over these key top-level domain names, the fact that it registers hundreds of thousands of these Internet domain names per month, and the fact that through its alliance with the National Science Foundation (since transferred to the U.S. Department of Commerce) there exist no competitors for NSI's registration of these key top-level domain names give the Defendant market power in the geographic market of the United States.

55. On information and belief, Defendant has the ability to influence prices and/or output of key top-level domain names throughout the geographic market of the United States by virtue of its exclusive contract with the National Science Foundation (since transferred to the U.S. Department of Commerce) for these registration duties.

56. On information and belief, Defendant has the ability to influence prices and/or output of key top-level domain names throughout the relevant market for these key top-level Internet domain names by virtue of its exclusive contract with the National Science Foundation (since transferred to the U.S. Department of Commerce) for these registration duties.

57. On information and belief, Defendant willfully acquires or maintains its market power by refusing to relinquish registration rights to any would-be competitors.

58. Such acts constitute monopolization of the market for these key top-level domain names.

59. Such actions substantially affect interstate commerce because consumers of these key top-level domain names are denied access to reasonable dispute resolution procedures and to the ability to conduct commerce over the Internet using their own trademark or service mark when Defendant knows or has reason to know that such trademark or service mark is being infringed by a prior domain name registrant.

60. My sales of my gift packages and self-inflating balloons have been damaged as a direct result of Defendant's monopolization activities.

61. I will be continued to be damaged unless Defendant's monopolization activities are enjoined.

62. On information and belief, Defendant's activities have been willful, intentional, and deliberate.

63. On information and belief, Defendant will continue its unlawful activities unless enjoined.

64. Defendant's activities constitute a violation of the Sherman Act Title 15 U.S.C. § 2.

65. My remedy at law is inadequate.

Now, Wherefore, I Pray For The Following Relief:

A. An order preliminarily and permanently enjoining Defendant, and its officers, agents, employees, attorneys, and those in active concert or participation with it from:

(1) permitting the domain name BirthdayBalloons.com to continue to be listed as an active registration (listing Steve Schwab as the registrant);

(2) contributing to the infringement of and contributorily unfairly competition with my BIRTHDAY BALLOONS trademark;

(3) engaging in any behavior or activity designed to attempt to monopolize, to monopolize, or to reduce competition in the key top-level Internet domain name market; or engaging in any other anti-competitive behavior; and/or

(4) otherwise competing unfairly with myself in any manner.

B. An equitable accounting of and payment to me of all profits derived by Defendant through its acts of unfair competition, service mark infringement, and anticompetitive activities in violation of federal and state law.

C. An award to myself of two million dollars ($2,000,000.00) for the damages that I have incurred due to the contributory infringement and/or other unlawful activity by Defendant.

D. An order requiring that NSI change the registrants's name for BirthdayBalloons.com to be my name Bruce Watts.

E. An order requiring that Defendant change its Internet domain name registration procedure to require proof of trademark rights in proposed domain names before a domain name registration will be granted and/or requiring that potential domain

name registrants conduct federal and state trademark searches to locate similar registered or pending applications for marks similar to their proposed domain name and provide proof that those searches turned up negative results.

F. An order requiring Defendant to change its domain name dispute policy to require proof only of actual use of a trademark or service mark, rather than requiring an actual registration document before it will act to place a registered domain name on hold.

G. An order requiring Defendant to change its domain name dispute policy to require that when a domain name registrant is shown to be a "cyber squatter", then Defendant will immediately change the registrant information for the disputed domain name to be that of the rightful trademark owner.

H. An award of expenses and costs associated with this action.

I. An award wherein any amounts awarded to me as damages or profits are increased to the maximum amount allowed under 15 U.S.C. § 1117 and trebled as allowed under 15 U.S.C. § 15.

J. An award to me of punitive damages in a sum to be determined at trial based upon the Defendant's willful and malicious acts of contributory infringement, unfair competition, and anticompetitive activities.

K. An award to me of all other and further relief that the Court may deem just and proper under the circumstances.

"s/ Bruce D. Watts"
Bruce Watts
6911 Palmer Road
Greens Fork, Indiana 47345-9720
(765) 886-6138
(765) 886-5471

PRO SE

CERTIFICATE OF SERVICE

A copy of the foregoing Amended Complaint has been sent via First Class Mail to:

Judy L. Woods
Bose, McKinney & Evans
2700 First Indiana Plaza
135 North Pennsylvania Street
Indianapolis, Indiana 46204

"s/ Bruce D. Watts"
Bruce Watts
6911 Palmer Road
Greens Fork, Indiana 47345-9720
(765) 886-6138 (phone)
(765) 886-5471 (fax)

PRO SE

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Court Procedure, I, Bruce Watts, demand a trial by jury on all issues triable as of right by a jury.

"s/ Bruce D. Watts"
Bruce Watts
6911 Palmer Road
Greens Fork, Indiana 47345-9720
(765) 886-6138 (phone)
(765) 886-5471 (fax)

PRO SE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

BRUCE WATTS,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No.IP 98-1529-C H/G
	)	
NETWORK SOLUTIONS, INC.,	)	
	)	
Defendant.	)	

FINAL JUDGEMENT

The court, having this day granted defendant's motion to dismiss and motion for summary judgement, it is hereby ORDERED, ADJUDGED, AND DECREED that plaintiff Bruce Watts take nothing by his complaint against defendant Network Solutions, Inc., that this cause of action is dismissed with prejudice, and that defendant recover its costs from plaintiff Watts.

Date: May 7, 1999

"s/ David F. Hamilton"
DAVID F. HAMILTON, JUDGE
United States District Court
Southern District of Indiana

Copies to:

Bruce Watts
6911 Palmer Road
Greens Fork, In 47345

Judy L. Woods
Bose McKinney & Evans
2700 First Indiana Plaza
135 North Pennsylvania Street
Indianapolis, IN 46204

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

BRUCE WATTS,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. IP 98-1529-C H/G
	)	
NETWORK SOLUTIONS, INC.,	)	
	)	
Defendant.	)	

ENTRY ON PENDING MOTIONS

Plaintiff Bruce Watts believes he is a victim of "cybersquatting". Someone else registered first a domain name on the Internet - "birthdayballoons.com" - that Watts wants to register. Watts has not taken any effective steps to sue the alleged cybersquatter, who lives in Connecticut and has not responded to Watts' electronic correspondence. Watts has chosen instead to focus his attentions to a more readily available target for litigation. He has sued Network Solutions, Inc. (NSI), the private company that manages the assignment of Internet domain names pursuant to a contract with the United States government. NSI refused Watts' application to register the domain name "birthdayballoons.com" for an Internet website. NSI registers domain names on a first-come-first-served basis, and another person had already registered that domain name.

Watts alleges that NSI, by failing to stop the alleged "cybersquatting", has violated the federal Sherman Act and Lanham Act, and the common law of unfair competition. If Watts is correct about the facts, he might have a viable claim for trademark violation against Steve Schwab, the person who first registered "birthdayballoons.com" with NSI. The pleadings and the undisputed

facts show, however, that Watts has no viable claims for relief against NSI, which plays the role of neutral stakeholder in the still inchoate dispute between Watts and Schwab. Accordingly, the court grants NSI's motion to dismiss and motion for summary judgement. The court denies plaintiff's motion for default judgement and the defendant's motion to strike.

I. Backround

A. The Internet, the Parties, and the Claims

This suit is one of a burgeoning number of cases involving disputes about use of the Internet. Judge McKenna described the Internet as follows:

The Internet is the world's largest computer network (a network consisting of two or more computers linked together to share electronic mail and files). The Internet is actually a network of thousands of independent networks, containing several million "host" computers that provide information services.

MTV Networks v. Curry, 867 F. Supp. 202, 203 n.1 (S.D.N.Y. 1994). A "site" is an Internet address that permits users to exchange digital information with a particular host, see id. at 203 n.2, and the World Wide Web refers to the collection of sites available on the Internet. See Shea v. Reno, 930 F. Supp. 916, 929 (S.D.N.Y. 1996), aff'd mem., Reno v. Shea, 117 S.Ct. 2501 (1997).

Internet domain names are akin to telephone numbers, in that they are unique sequences of letters and number(s) that route an Internet user to a specific website on the Internet. A "website" is an Internet address that permits users to exchange digital information with a particular host.

Bensusan Restaurant Corp. v. King, 937 F. Supp. 295, 297 n.1 (S.D.N.Y. 1996), aff'd, 126 F.3d 25 (2d Cir. 1997).

In this case, Watts challenges NSI's authority to register "domain names" on the Internet and its actions in doing so. Domain names are comprised of a series of numbers or letters, followed by a period and a specific three letter designation. The three letter designation to the right of the period is called the "top level domain" or "TLD". The numbers or letters to the left of the period are called the "second level domain name" and must be unique. Internet domain names are important to organizations seeking to use the Internet because there is nothing akin to an Internet telephone book where all domain names are indexed. See Haelan Products, Inc. v. Beso Biological Research, Inc., 43 U.S.P.Q.2d 1672, 1673 n.1 (E.D. La. 1997) ("A domain name mirroring a corporate name may be a valuable corporate asset, since it facilitates communication with customers"), citing MTV Networks v. Curry, 867 F. Supp. at 203 n.2.

NSI is a publicly traded Delaware corporation that has been selected by the United States government to provide Internet registry services for the second level domain names for certain TLD's, including ".com", ".org", ".net", and ".edu". This responsibility was established through a cooperative agreement between NSI and a federal agency, the National Science Foundation (NSF) effective January 1, 1993. In 1998, the cooperative agreement was amended to replace NSF with the United States Department of Commerce.

Watts alleges that in 1998, in an effort to market certain goods on the Internet, he sought to register the domain name "birthdayballoons.com" with NSI. NSI advised Watts that it could not register that name to him because the name was already registered to someone else.

B. Procedural Backround

The operative pleading setting forth these claims is Watts' amended complaint, filed on January 22, 1999. NSI filed an answer to the amended complaint on February 8, 1999.

Four motions are pending. These are (1) Watts' motion for default judgement, (2) NSI's motion to dismiss antitrust claims, (3) NSI's motion for partial summary judgement on the remaining claims under the Lanham Act and for unfair competition, and (4) NSI's motion to strike materials that Watts submitted in opposition to summary judgement. Watts' motion for default judgement is denied because NSI did not default. NSI filed its answer to the amended complaint less than 20 days after the amended complaint was filed on January 22, 1999.

II. Discussion

A. NSI's Motion to Dismiss

NSI argues that the antitrust claims asserted in Counts III and IV of the amended complaint fail to state claims upon which relief can be granted. Rule 12(b)(6) of the Federal Rules of Civil Procedure authorizes dismissal of complaints that state no actionable claim. Dismissal of a complaint for failure to state a claim is proper only if "it appears beyond doubt that the plaintiff can

prove no set of facts in support of his claim which would entitle him to relief." Strasburger v. Board of Educ., 143 F.3d 351, 359 (7th Cir. 1998).

Watts alleges in Count III that NSI entered into an exclusive contract with the government that substantially limits competition in the domain name registration market, in violation of Section 1 of the Sherman Act. He alleges in Count IV that NSI's exclusive control over the registration of domain names constitutes a monopoly and violates Section 2 of the Sherman Act.

Putting aside for now the prospect of "competition" in a "market" for domain name registration, NSI asserts that Counts III and IV of Watts' amended complaint fail to state a claim upon which relief can be granted because NSI is immune from antitrust liability under Sections 1 and 2 of the Sherman Act. At least three district courts have addressed this issue in other actions brought against NSI. See PGMedia, Inc. v. Network Solutions, Inc., 1999 WL 144494, *12-18 (S.D.N.Y. March 16, 1999) (detailed discussion); Beverly v. Network Solutions, Inc., 1998 WL 320829, *4 (N.D. Cal. June 12, 1998); Thomas v. Network Solutions, Inc., 2 F. Supp. 2d 22, 38 (D.D.C. 1998). Each has agreed with NSI, as this court does.

It has long been settled that the United States is not subject to liability under Sections 1 and 2 of the Sherman Act. See United States v. Cooper Corp., 312 U.S. 600, 607 (1941) (United States is not a "person" for purposes of Sherman Act); Sea-Land Service, Inc. v. Alaska R.R., 659 F.2d 243, 246 (D.C. Cir. 1981). Federal instrumentalities are absolutely immune from antitrust liability. Id. This federal instrumentality immunity applies not only to federal agencies, but also to private entities acting pursuant to agreements with such federal agencies. Southern Motor Carriers Rate Conf. v.

United States, 471 U.S. 48, 56-57 (1985). "[P]rivate parties acting in compliance with clearly articulated government policies or programs are immunized from antitrust liability to the same extent as the government entity." IT&E Overseas, Inc. v. RCA Global Communications, Inc. 747 F. Supp. 6, 11 (D.D.C. 1990), citing Southern Motor Carriers, 471 U.S. at 56-57. "Because NSI is acting in compliance with a government cooperative agreement, therefore, it is entitled to immunity from suit under the Sherman Act." Thomas, 2 F. Supp. 2d at 38; see also PGMedia and Beverly (holding that NSI is immune from liability under Sherman Act). NSI's motion to dismiss Counts III and IV of the amended complaint must be granted.

NSI's Motion for Summary Judgement and Motion to Strike

1. Summary Judgement Standard. Rule 56(c) of the Federal Rules of Civil Procedure provides that a motion for summary judgement shall be granted "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affadavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgement as a matter of law". A "material fact" is one that "might affect the outcome of the suit". Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986). A dispute is genuine only if a reasonable jury could find for the nonmoving party. Id. "Summary judgement is appropriate - in fact, is mandated - where there are no disputed issues of material fact and the movant must prevail as a matter of law." Dempsey v. Atchison, Topeka and Santa Fe Ry. Co., 16F.3d 832, 836 (7th Cir. 1994).

Because NSI seeks the entry of summary judgement and Watts is proceeding without counsel, the notice required by Lewis v. Faulkner, 689 F.2d 100 (7th Cir. 1982), was provided to Watts by

NSI. Through this notice, Watts was notified of the nature of NSI's motion, the proper manner in which to respond and the consequences of failing to respond. This process afforded Watts "a full opportunity to present contradicting affidavits or materials in order to cure a jurisdictional or party defect not capable of being resolved on the words of the complaint." English v. Cowell, 10 F.3d 434, 437 (7th Cir. 1993), citing Fountain v. Filson, 336 U.S. 681 (1949). Watts has responded to NSI's motion with evidentiary materials and a discussion of his claims.

Much of Watts' response to the motion for summary judgement, however, has the flavor of a demand to "give me my day in court." This reaction is not uncommon among pro se litigants (and not a few lawyers). Before courts require citizens to appear in court to serve as jurors in civil cases, however, motions for summary judgement provide a vehicle for considering whether there is any need for a trial. Summary judgement is not a disfavored procedural shortcut. It is an integral part of the federal rules, which are designed to secure the just and expedious determination of every action. Celotex Corp. v. Catrett, 477 U.S. at 327; see United Ass'n of Black Landscapers v. City of Milwaukee, 916 F.2d 1261, 1267-68 (7th Cir. 1990). If there are no genuine issues of material fact, a jury trial is a waste of time for the jurors, the court, and the parties. Once a properly supported motion for summary judgement is made, the party that bears the burden of proof on a particular issue at trial cannot resist the motion by merely resting on his pleadings. United States v. Lair, 854 F.2d 233, 235 (7th Cir. 1988).

2. Motion to Strike. NSI asserts in its motion to strike that the statements, documents, and other materials submitted by Watts in opposing the motion for summary judgement are not admissible. A court deciding a summary judgement motion should not rely on unauthenticated

documents filed in support of or opposition to such a motion. Vukadinovich v. Board of School Trustees, 776 F. Supp. 1325, 1326 (N.D. Ind. 1991), aff'd 978 F.2d 403 (7th Cir. 1992). "To be admissible, documents must be authenticated by and attached to an affidavit that meets the requirements of Rule 56(e), and the affiant must be a person through whom the exhibits could be admitted into evidence." Id. at 1327, citing 10A C. Wright, A. Miller, and M. Kane, Federal Practice and Procedure § 2722 (2d ed. 1983).

This court believes that it is often the better procedure not to strike challenged documents but to apply the evidentiary requirements of Rule 56(e) in deciding which "facts" are properly established or disputed. This is such a case. Accordingly, NSI's motion to strike is denied.

3. Findings of Undisputed Fact. Viewing the admissible evidence in the light reasonably most favorable to plaintiff Watts, the following facts are undisputed for purposes of NSI's motion for summary judgement.

Under a cooperative agreement with the United States Department of Commerce (formerly with the NSF), NSI is the exclusive registrar for the ".com" TLD. For a two-year registration fee, NSI records the registration of domain names for registrants if the domain name chosen is not already registered in the TLD administered by NSI.

NSI electronically records a given domain name. In more than 90 percent of the registrations, no human intervention takes place. NSI registers approximately 300,000 Internet domain names per month on a "first come, first served" basis.

NSI does not have the resources , expertise, or authority to review, analyze, or pre-screen requested domain names for compliance with the trademark laws of various countries. Each domain name registrant is required to represent and warrant to NSI that the registration of the selected domain name, to the best of the applicant's knowledge, does not infringe upon or interfere with the rights of any third party.

NSI does not use any domain name (other than its own) in connection with the sale, distribution, or advertising of goods and services. It has no interest, financial or otherwise, in any particular domain name, including "birthdayballoons.com." More specifically, NSI does not compete with Watts in connection with the sale or marketing of any gift boxes, candy, balloons, or self-inflating balloons.

In 1995, NSI instituted a domain name "Dispute Policy." Under the Dispute Policy, if a prospective domain name registrant has reason to believe that a domain name registrant has potentially breached its warranty of non-infringement, the prospective registrant (the "complainant") must present NSI with an original, certified copy of its federal trademark registration which is in full force and effect and which is identical to a second-level domain name. The complainant must also present to NSI a copy of a prior written notice sent to the domain name registrant by the complainant stating the complainant's factual and legal bases for his belief that the registration and use of the disputed domain name violates trademark rights of the complainant, and stating the factual basis for believing that the registrant received the notice. Upon receipt of these documents, NSI will notify the current domain name holder of a number of options that are available to allow the claimants to resolve the dispute between themselves.

In July 1998, Watts began using the mark BIRTHDAY BALLOONS to market and sell gift packages that incorporate self-inflating balloon mechanisms. Watts alleges that his BIRTHDAY BALLOONS mark is distinctive and that he has been using it in intrastate and interstate commerce in Indiana and the United States.

Mr. Steve Schwab registered the domain name "birthdayballoons.com" on August 4, 1998. Schwab is not a party to this action. In October 1998, Watts attempted to register the domain name "birthdayballoons.com" through NSI, but was advised that the name was not available because it was already registered to Schwab.

Watts contacted Schwab through electronic mail demanding that he immediately cease and desist from further use of the "birthdayballoons.com" domain name. Watts never received any response from Schwab. Watts contacted NSI in writing and informed NSI of his claim to the trademark BIRTHDAY BALLOONS. He informed NSI that he wanted to register that name on the Internet and that he was going to file suit in small claims court.

Watts did not provide NSI with a certified copy of his federally-registered trademark or with a copy of any notice sent to Schwab. NSI therefore has not triggered the procedures of its Dispute Policy in this dispute.

On October 27, 1998, Watts filed suit against Schwab and Leslie Gutowski, who is an employee of NSI, in small claims court in Wayne County, Indiana. On January 8, 1999, the small claims court entered default judgement against Schwab, but the court vacated that judgement on

January 28, 1999, because service of process had not been perfected. The action against Gutowski was removed to this court on November 9, 1998, and on January 6, 1999, the court joined NSI as a defendant and dismissed Gutowski as a defendant.

4. Conclusions of law. Based on the foregoing findings of undisputed fact, the court now makes the following conclusions of law.

In Counts I and II of his amended complaint, Watts asserts claims of "contributory unfair competition" pursuant to Section 43 of the Lanham Act, 15 U.S.C. § 1125, and the common law, respectively. The touchstone for liability under the Lanham Act is a showing that the defendant is liable for a "likelihood of confusion" in connection with the use of the plaintiff's mark. See 15 U.S.C. § 1125(a)(1) (a false designation of origin violates the Act if it is "likely to cause confusion, or to cause mistake or to deceive").*

Watts bases his claims on NSI's alleged "persistence in supplying a domain name to one it knows or has reason to know is engaging in trademark infringement and unfair competition." To sustain a claim of contributory trademark infringement under the Lanham Act, Watts must show that

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*The only trademark infringement claim Watts asserts against NSI is for "contributory infringement" pursuant to the Lanham Act. No other claim would be viable. By merely accepting Schwab's registration of the domain name "birthdayballoons.com," NSI did not "use" the mark in connection with goods or services within the meaning of the Lanham Act. See Lockheed Martin Corp. v. Network Solutions, Inc., 985 F. Supp. 949, 958-59 (C.D. Cal. 1997); Academy of Motion Picture Arts & Sciences v. Network Solutions, Inc. 989 F. Supp. 1276, 1279 (C.D. Cal. 1997); Panavision Int'l, L.P. v. Toeppen, 945 F. Supp. 1296, 1303 (C.D. Cal. 1996), aff'd, 141 F.3d 1316 (9th Cir. 1998). "NSI's use of domain names is connected to the names' technical function on the Internet to designate computer addresses, not to the names' trademark function to distinguish good[s] and services." Lockheed, 985 F. Supp. at 960. "The fact that NSI makes a profit from the technical function of domain names does not convert NSI's activity to trademark use." Id.

NSI (1) intentionally induced another to infringe on Watts' trademark, or (2) continued to supply a product knowing that the recipient was using the product to engage in trademark infringement. See Hard Rock Café Licensing Corp. v. Concession Services, Inc., 955 F.2d 1143 (7th Cir. 1992), discussing test set forth in Inwood Laboratories, Inc. v. Ives Laboratories, Inc., 456 U.S. 844, 853-54 (1982); see also Lockheed Martin Corp. v. Network Solutions, Inc., 985 F. Supp. 949, 960-65 (C.D. Cal 1997) (NSI not liable for contributory trademark infringement where trademark holder asserted a registered domain name infringed the mark). Watts does not allege that NSI induced Schwab to infringe on his trademark. Therefore, the court need only consider whether a genuine issue of fact exists concerning the second, "knowledge" prong of the Inwood test.

Watts asserts that NSI knew or had reason to know by virtue of his repeated correspondence with NSI that Schwab is engaged in trademark infringement and unfair competition. The undisputed facts show nothing of the sort. The evidence shows at most only that NSI knew that Watts had a dispute with Schwab, but that Watts had not taken any serious or effective steps to resolve that dispute directly with Schwab. Watts['] b[o]ld assertion of infringement imposed no obligation on NSI to referee their dispute or to grant what would be comparable to a private preliminary injunction against Schwab. "The mere assertion by a trademark owner that a domain name infringes its mark is not sufficient to impute knowledge of infringement to NSI." Lockheed, 985 F. Supp. at 963. "The use of an identical or similar mark does not necessarily constitute infringement." Id.

To constitute infringement in this case upon which NSI's liability for contributory infringement might be based, Schwab's use would have to be in connection with goods or services that are competitive with the goods or services for which BIRTHDAY BALLOONS has been

registered or used by Watts. See id. Schwab's use would also have to cause a likelihood of confusion as to origin or sponsorship. Id.

Watts has not submitted any evidence tending to show any infringing use or likelihood of confusion caused by Schwab. Watts has not even alleged whether Schwab has used the domain name "birthdayballoons.com" in connection with any goods or services. Watts has merely alleged that Schwab obtained the domain name that Watts wanted to use before Watts could register it, and that NSI has failed to submit to his unilateral demands to revoke Schwab's registration. Watts' demands on NSI, without much more, are not sufficient to show that NSI had any knowledge of any actual infringement, as distinct from knowledge of a (still inchoate) dispute. Thus, Watts has not established that any genuine issue of fact exists as to whether NSI knew or had reason to know that Schwab was using a particular domain name to engage in trademark infringement.

NSI asserts, and the court agrees, that there is no authority for the proposition that an independent tort of contributory unfair competition exists under Indiana law.* Unfair competition under Indiana law consists of an attempt to create confusion as to the source of an unfair competitor's goods, and has also been referred to as "passing off" goods of one person as goods of another. Hammons Mobile Homes, Inc. v. Laser Mobile Home Transport, Inc., 501 N.E. 2d 458, 461 (Ind. App. 1986). Watts has not alleged, nor could he show, that NSI sells any goods or otherwise

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*Count II of Watts' amended complaint asserts a claim based on Indiana state law. This is a case in which the court would best serve "the principles of economy, convenience, fairness and comity which underlie the pendent jurisdiction doctrine" by reaching the merits of the state law claim rather than leaving state courts the task of dismissing a claim without merit. See Centres, Inc. v. Town of Brookfield, 148 F.3d 699, 704 (7th Cir. 1998), quoting City of Chicago v. International College of Surgeons, 118 S. Ct. 523, 533 (1997) (internal quotations omitted).

competes in any way with Watts' goods, so any unfair competition theory of liability under Indiana law must fail. See Beacham v. Macmillan, Inc., 837 F. Supp. 970, 977 (S.D. Ind. 1993) ("passing off" theory of unfair competition fails when the defendant sells no goods to the public and does not compete with the plaintiff in the marketplace). Even if the Indiana courts might be inclined to recognize such a claim for contributory unfair competition of this sort, the court expects that the Indiana courts would be likely to stay within the contours of the federal theory of contributory trademark infringement, discussed above, so that merely asserting to one person that a third person is infringing one's trademark would not be sufficient to establish knowledge of actual infringement. NSI is entitled to summary judgement on the common law claim, as well.

III. Conclusion

For these reasons, the court (1) denies Watts' motion for default judgement, (2) grants NSI's motion to dismiss Counts III and IV, (3) denies NSI's motion to strike, and (4) grants NSI's motion for partial summary judgement as to Counts I and II. Watts' motion to proceed is denied.

Judgement consistent with this Entry shall now issue. The costs of this action are assessed against the plaintiff.

So ordered.

Date: May 7, 1999

"s/ David F. Hamilton"
DAVID F. HAMILTON, JUDGE
United States District Court
Southern District of Indiana

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Appendix to show "UNPUBLISHED ORDER":

United States Court of Appeals

For the Seventh Circuit
Chicago, Illinois 60604

Submitted October 26, 1999*
Decided October 27th, 1999

Hon. Harlington Wood, Jr., Circuit Judge
Hon. Joel M. Flaum, Circuit Judge
Hon. Terence T. Evans, Circuit Judge

No. 99-2350	Appeal from the United States District Court for the Southern
Bruce Watts, Plaintiff-Appellant,	District of Indiana, Indianapolis Division
v.	No. IP 98-1529-C-H/G
Network Solutions, Inc. Defendant-Appellee.	David F. Hamilton, Judge.

ORDER

Bruce Watts originally brought this action in Indiana small claims court against Leslie Gutowski, an employee of Network Solutions, Inc., (NSI) seeking $3000 in damages for trademark infringement. Gutowski removed the action to federal court and filed a motion to dismiss as against herself; NSI moved to be substituted as the party defendant. The district court granted the motions and instructed Watts to file an amended complaint. Watts did, alleging that NSI violated the Sherman Act, 15 U.S.C. § 1 et seq.; the Lanham Act, 15 U.S.C. § 1125; and Indiana's common law of unfair competition. NSI filed a motion to dismiss the Sherman Act claims and a motion for summary judgement on the Lanham Act and state law claims. The district court granted NSI's motions. Watts appeals. We affirm.

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* After an examination of the briefs and the record, we have concluded that oral argument is unnecessary; the appeal is submitted on the briefs and the record. Fed. R. App. P.34(a)(2).

Appendix to show "UNPUBLISHED ORDER"

Watts is suing NSI, a private company that registers Internet domain names pursuant to a government contract,* because NSI refused to register the domain name "birthdayballoons.com" to him. Watts alleged that he was the first person to use the name "BIRTHDAY BALLOONS" in interstate commerce as part of his business of marketing gift packages. He further alleged that the name is distinctive, that it has become a "famous" mark, and that he has applied to register the name with the United States Department of Commerce's Patent and Trademark Office. Watts alleged that NSI informed him that it could not register the domain name "birthdayballoons.com" to him, because it was already registered to another individual, Steve Schwab. NSI told Watts that he could pursue relief against Schwab.* In addition, NSI's director of Business Affairs, David M. Graves, stated in a declaration pursuant to 18 U.S.C. § 1746 that NSI does not make independent determinations of an applicant's right to use a particular domain name. Instead, it merely registers domain names on a first-come first-served basis. Graves further explained that NSI has a dispute resolution policy under which the holder of a federally-registered trademark may challenge another's use of an allegedly infringing domain name, but he added that Watts had not presented NSI with any proof that he had a federally-registered trademark in "BIRTHDAY BALLOONS" so as to trigger the policy.

We review the dismissal of the Sherman Act claims de novo, drawing all reasonable inferences from the complaint in favor of Watts. See Autry v. Northwest Premium Servs., Inc. 144 F.3d 1037, 1039 (7th Cir. 1998). In dismissing these claims, the district court held that Watts could not sue NSI because NSI is immune from antitrust liability as a federal instrumentality. Although NSI is responsible for domain name registration pursuant to a government contract, NSI does not therefore posses automatic government instrumentality immunity. As the D.C. Circuit recently observed, "A contractor might be free to perform the contract in any number of ways, only one of which is anticompetitive." See Thomas v. Network Solutions, Inc., 176 F.3d 500, 509 (D.C. Cir. 1999) (footnote omitted).

Appendix to show "UNPUBLISHED ORDER"

Therefore, rather than decide the complex issue of whether NSI enjoys antitrust immunity, see, e.g., Fuchs v. Rural Elec. Convenience Coop. Inc., 858 F.2d 1210 (7th Cir. 1988) (discussing the factors used to determine whether private parties are immune from antitrust laws), we choose to affirm on another ground supported by the record, see Indemnified Capital Invs. v. R.J. O'Brien & Assocs., 12 F.3d 1406, 1410 (7th Cir. 1993), namely, that Watts failed to state a claim because he alleged no antitrust injury.

In order to maintain an antitrust action under the Sherman Act, a private plaintiff must establish that he has suffered an antitrust injury and that he is the proper plaintiff to maintain an antitrust action with respect to the relevant market. See Serfecz v. Jewel Food Stores, 67 F.3d 591, 596-97 (7th Cir. 1995). An antitrust injury is the type of injury that "the antitrust laws were

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*1 See generally Panavision Int'l, L.P. v. Toeppen, 141 F.3d 1316, 1318-19 (9th Cir. 1998) (discussing the Internet and the function of domain names).

*2 Watts sued Schwab in Indiana state court, obtaining a default judgement against him; that judgement was later vacated because Schwab had not been properly served.

intended to prevent.... The injury should reflect the anticompetitive effect either of the violation or of the anticompetitive acts made possible by the violation." Id. at 597 (quotation marks and citation omitted). Watts maintains that NSI has a monopoly in the domain-name registering business. However, he does not argue that he was injured as a consumer by, for example, being forced to pay higher prices or by being forced out of the market of registering domain names himself. See id. Instead, Watts contends that his "injury" is his inability to register the name "birthdayballoons.com" because NSI already registered that name to Schwab. This is not an antitrust injury; NSI is not preventing Watts from competing in his business of selling gift packages because NSI does not compete with Watts in the sale of gift packages. Accordingly, the Sherman Act claims were properly dismissed.

We likewise review de novo the grant of summary judgement against Watts on the Lanham Act and common law unfair competition claims. See Johnny Blastoff, Inc. v. Los Angeles Rams Football Co., 188 F.3d 427, 433 (7th Cir. 1999). Watts alleged that NSI is liable for contributory trademark infringement under the Lanham Act. Contributory trademark infringement occurs when a manufacturer or distributor (1) intentionally induces another to infringe a trademark or (2) continues to supply a product to one whom it knows or has reason to know is engaging in trademark infringement. See Inwood Laboratories, Inc. v. Ives Laboratories Inc., 456 U.S. 844, 854 (1982). Watts argues that NSI violated the second prong of the Inwood test, because NSI continues to "supply" to Schwab the domain name "birthdayballoons.com" when he alone possesses the rights to the mark "BIRTHDAY BALLOONS." Watts presented no evidence, however, that NSI knew that Schwab was engaging in trademark infringement; indeed, Watts failed to demonstrate that Schwab even used the domain name "birthdayballoons.com" in connection with the sale of any goods or services in interstate commerce. See Johnny Blastoff, Inc., 188 F.3d at 436 (listing the area and manner of concurrent use of the trademark as a factor to consider in determining whether trademark infringement occurred). Thus, the district court correctly awarded summary judgement in favor of NSI on this claim.

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The district court also correctly determined that Indiana law does not currently recognize the tort of contributory unfair competition, see, e.g., Hammons Mobile Homes, Inc. v. Laser Mobile Home Transp., Inc. 501 N.E. 2d 458, 460-61 (Ind. App. 1987) (describing the tort of unfair competition), therefore, it properly awarded summary judgement on this claim as well.

Finally, Watts argues that the district court erroneously granted NSI's motions because it failed to (1) read all of his paperwork, (2) give him a trial by jury, (3) docket all of his paperwork, and (4) send him transcripts from a pre-trial conference. He also contends that the district court quoted the defendant "word-for-word" and accepted their arguments" as "facts." However, our review of the record and the district court's order shows that the district court carefully considered Watts' claims. Watts' contentions of improper actions taken by the district court are unsubstantiated and appear to arise from his lack of familiarity with the Federal Rules of Civil Procedure and the use of legal precedent to decide cases.

Accordingly, we AFFIRM.